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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

20 UNITED STATES OF AMERICA,) No. CR-09-00775 SBA
21 Plaintiff,) STIPULATED REQUEST TO CONTINUE
22 v.) HEARING DATE TO APRIL 25, 2012
23 JUAN OCTAVIANO LOPEZ, and) AND TO EXCLUDE TIME UNDER THE
24 GLENZY GOMEZ,) SPEEDY TRIAL ACT
25 Defendants.)
26 _____)

27 The above-captioned matter is set for March 6, 2012 for a status conference. The parties
28 request that the Court continue the hearing to April 25, 2012 at 10:00 a.m. and that the Court
exclude time under the Speedy Trial Act between the filing of this stipulation and April 25,
2012.

29 Defendants Lopez and Gomez were charged on July 29, 2009 with possession of a
30 controlled substance for sale. Attorney Lynn Kelsar was appointed for Mr. Lopez, and Randy
31 Knox for Ms. Gomez. On November 8, 2011 Attorney Erik Babcock was appointed to represent
32 Mr. Lopez.

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34 STIP. REQ. AND [PROPOSED] ORDER TO CONTINUE
35 HEARING TO APRIL 25, 2012 AND TO EXCLUDE TIME
36 No. CR-09-00775 SBA

1 Counsel for defendant Lopez needs additional time in which to consult with his client.
2 Although counsel has visited Mr. Lopez several times in jail, when he called this week to
3 schedule a visit, he was told that a visit could not be scheduled until clearance from the U.S.
4 Marshal was obtained. Counsel has requested such clearance from the Marshal. However,
5 counsel will be out of town and unavailable to visit with Mr. Lopez until Monday, March 5,
6 2012. Counsel will need additional time before being prepared to determine whether or not
7 defendant Lopez should enter a change of plea or file motions and to prepare for trial in this
8 matter.

9 A continuance is therefore necessary in order to review the discovery and the evidence,
10 evaluate the proposed plea agreement in light of the discovery and the evidence, and to meet and
11 confer with Mr. Babcock's client to discuss the discovery and the evidence and to determine
12 whether or not to prepare and file motions in this case and/or to proceed to trial. Counsel for
13 defendants Lopez and Gomez have scheduling conflicts deriving from other cases between the
14 date of this stipulation and April 25, 2012.

15 Additionally, new lead counsel for the United States has recently been assigned to the
16 prosecution of this matter. The requested continuance will allow new counsel for the United
17 States time to evaluate the evidence in this case, as well as mitigating circumstances provided by
18 counsel for defendant Gomez. Although not relevant for purposes of the requested time
19 exclusion, the parties hope to reach plea agreements before April 25. The extension is not
20 sought for delay. The parties agree the ends of justice served by granting the continuance
21 outweigh the best interests of the public and the defendants in a speedy trial. Therefore, the
22 parties further stipulate and request that the Court exclude time between the date of this
23 stipulation and April 25, 2012

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3 under the Speedy Trial Act for effective preparation of counsel, continuity of counsel, and
4 pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv).

5 DATED: March 2, 2012

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7 _____
8 /s/
CHRISTINA McCALL
Assistant United States Attorney

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10 _____
11 /s/
ERIK BABCOCK
Counsel for Defendant Juan Lopez

12 _____
13 /s/
RANDALL G. KNOX
Counsel for Glendy Gomez

14 **FINDINGS AND ORDER.**

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16 The parties jointly requested that the hearing in this matter be continued from March 6,
17 2012 at 10:00 a.m., to April 25, 2012 at 10:00 a.m. and that time be excluded under the Speedy
18 Trial Act between the date of this stipulation and April 25, 2012.

19 The Court hereby finds that the requested continuance will provide defendants' counsel
20 with necessary time to evaluate the evidence in this case and determine whether or not
21 defendants should enter a change of plea or file motions and to prepare for trial in this matter.
22 Specifically, new counsel was appointed for defendant Lopez after his prior counsel withdrew
23 and new counsel needs additional time review the discovery and the evidence, evaluate the plea
24 agreement in light of the discovery and the evidence, and to meet and confer with his client to
25 discuss the discovery and the evidence and to determine whether or not to prepare and file
26 motions in this case and/or to proceed to trial. Counsel for defendants Lopez and Gomez have
27 scheduling conflicts deriving from other cases between the date of this stipulation and April 25,
28 2012.

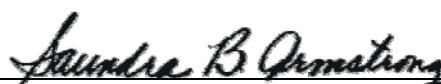
STIP. REQ. AND [PROPOSED] ORDER TO CONTINUE
HEARING TO APRIL 25, 2012 AND TO EXCLUDE TIME
No. CR-09-00775 SBA

1 Additionally, new lead counsel for the United States has recently taken over the
2 prosecution of this matter. The requested continuance will allow new counsel for the United
3 States time to evaluate the evidence in this case, as well as mitigating information provided by
4 counsel for defendant Gomez. Although not relevant for purposes of the requested time
5 exclusion, the parties hope to reach plea agreements before April 25, 2012. The parties agreed
6 that the extension is not sought for delay. The parties further agreed the ends of justice served
7 by
8 granting the continuance outweigh the best interests of the public and the defendant in a speedy
9 trial.

10 For these stated reasons, the Court finds that the ends of justice served by granting the
11 continuance outweigh the best interests of the public and the defendant in a speedy trial. Good
12 cause appearing therefor, and pursuant to 18 U.S.C. §§ 3161(h)(7)(A) and (B)(iv),

13 **IT IS HEREBY ORDERED** that the hearing in this matter is continued from March 6,
14 2012 to April 25, 2012 at 10:00 a.m. before this Court, and that time between this stipulation and
15 April 25, 2012 is excluded under the Speedy Trial Act to allow for the effective preparation of
16 defense counsel, taking into account the exercise of due diligence.

17 DATED:3/6/12
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21 HON. SAUNDRA BROWN ARMSTRONG
United States District Court Judge